

## DS SPSC Meeting

November 21, 2019

Oak Conference Room, Waterbury State Office Complex

### Attendees

Committee Members: Bethany Drum, Edwin Place, David Ballou, Joy Redington, Rachel Colby, Bill Ashe, Lyn Ujlaky, Anne Bakeman, Ellen Malone, Barb Prine

Guests: Josh Bertini, Lynn Cleveland Vitzthum, Ashleigh Allaire, Tonya Mason, Judy Cookson, Leigh Holliday, Stanton Eddy, Sue Aichroth, Kara Artus

State Employees: Debbi Smith, June Bascom, Kirsten Murphy, Clare McFadden, Lisa Parro

### Review Agenda and Meeting Minutes

The DS State Program Standing Committee (DS SPSC) meeting minutes for the September 19, 2019 meeting were reviewed. Rachel moved to accept the meeting minutes, Ed Seconded the motion and it was passed.

The DS SPSC meeting minutes for the October 17, 2019 meeting were reviewed. Bethany made a motion to accept the meeting minutes, David seconded the motion and it was passed.

The meeting agenda was reviewed.

### DDSD Updates

Theresa Earle, Heath Care Rehabilitation Services (HCRS), has left the agency and Dylan Devlin is the Interim Director until a new DS Director is hired.

A training was held for Supported Employment, specifically focused on autism. Alan Kurtz, Ph.D., an expertise in autism, provided the training. The training was well received; they are going to try to make this a yearly event.

### **DAIL Background Check Policy**

In the current DAIL Background Policy there are certain types of crimes/abuse listed in the policy that disallow a person from being paid with Medicaid funds to care for a person with a disability if they have one of the crimes/abuse in their history; but there are other crimes in which the employer can make a judgement whether to hire the person or not. However, the background check policy does not currently apply to people who are employers of workers who provide care to people with disabilities.

*An 'employer of record' is a person that oversees hiring workers, deciding wages, signing off on pay sheets, managing services budgets that are paid through ARIS. The employer of record can be a shared living provider, guardian, parent, family member, friend, or the individual receiving services.*

There is a situation where the employer of record is on the Adult Protective Service (APS) Adult Registry for abuse, neglect and exploitation for their family member. DAIL realized that a rule does not exist which would disqualify a person on the APS Registry to be an employer of record, and that background checks are not currently done for an employer of record. For example, even if the person is on the registry for fraud or embezzlement, they can still be an employer of record and oversee someone's budget; or the employer of record could be on the APS Registry for abuse and have control over an individual's services.

DAIL is considering whether the employer of record should fall under the same background check policy that is used for other workers/providers in the system. On the other side of the issue is the lack of workforce available and if requiring a background check for employer of record could impede upon the workforce that is available and be a disincentive to people managing their own services.

DAIL is requesting feedback from the SPSC about whether the DAIL Background Check Policy should be applied to employers of record, including the variance process when needed. What are the implications of requiring a background check for employer of records.

- It was noted that if there is a report of abuse, neglect or exploitation and there is an APS investigation, the background check may not show anything and the person could remain in the home. A person is not put on the Registry unless he/she is substantiated and until the period for filing an appeal has passed. The background check policy does not apply to unpaid caregivers.
- Home providers who are employer of record go through a background check.
- Household members of a respite provider, where the provider provides overnight care in his/her home, do not have a background check either.
- New guardians have a background check. Guardians who have been in place for a while do not have a background checks repeated, and some could occur after the initial appointment of guardianship.
- Shared home providers and their household members have a background check, and all caregivers/workers get background checks.
- If the person is not on the Abuse Registry, but has a criminal offense or driving violation on the background check, it could still cause a hurdle to get through the process.
- Hard to know if a person has a criminal background if you should give them another chance.
- Somebody could have criminal activity in their past but if they were never caught, it would not show on a background check.

- Sometimes people have a hard time telling their story, so an appeal may be difficult for them.
- If a family member is helping, even though they may have something on record, remember it is still family member. The person may wish to have their family member provide care, even knowing what is in the family member's background.
- How many issues have occurred because of this? May not need to change the policy if this type of situation is rare.
- Are exclusions in the current DAIL Background Check Policy still the right ones? Revisit these?
- The judgement used in granting variance in the DAIL Background Policy may be viewed differently by different employers. Example: A person with a DUI 5 years ago may be approved/accepted by one agency, but not approved by another agency.

In addition to Developmental Services, the DAIL Background Policy applies to other DAIL programs – Choices for Care (CfC), Traumatic Brain Injury (TBI), and Children's Personal Care. Any changes made to the policy will affect all of these programs.

Clare thought the suggestion to research the policies of other states would be beneficial. DAIL will gather some additional information and bring it back to the SPSC.

### **DDSD Director Recruitment**

Clare will be moving into a new position as Director of DS Payment Reform. The position for a new Developmental Disabilities Services Division (DDSD) Director was posted for recruitment, which has now been closed. The list of candidates, some within State government and some outside of the State, were narrowed down to about six people and the first set of interviews will be held on December 2<sup>nd</sup>. Kathleen Brown will participate in the interviews as the designee for the DS Directors. The SPSC has been asked to participate in the interviews with a representative for each SPSC category (Representative for Professional, for Advocate, and for Recipient.) Rachel (Representative for Recipients) and Joy (Representative for Advocates) volunteered. If there is not another Representative for Professionals who would like to do it, Ellen Malone has volunteered to participate. Joy will reach out to Mark Utter as a backup for Representative for Recipients as Rachel may have a conflict.

The DAIL Commissioner, Deputy Commissioner, and Amy Roth will hold a 2<sup>nd</sup> round of interviews. They would like to bring the top one-two candidates to the SPSC meeting in December so they may speak about their vision and the SPSC can ask questions. It is expected that the position will not be filled until mid-January. Clare will continue to do both jobs until that time.

### **GMSA, DS Director, VT Care Partner, DD Council Updates**

DD Council sending out a flyer for those interested in telling stories and submitting to them. The DD Council will provide technical assistance. Deadline for submissions is 2/14.

RMHS is hosting a showing of the movie “Invaluable: The Unrecognized Profession of Direct Support.” A documentary film exploring the underappreciated and underfunded work of direct support professionals (DSPs), the people who support individuals with intellectual and developmental disabilities in living full lives as members of their communities. (More information can be found at: <https://ici.umn.edu/product/invaluable/main> )

The designated agencies are focused on Electronic Medical Records (EMR) and encounter data. Conflict of Interest of case management (COI) is also high on the minds of the designated agencies due to the uncertainty and inability to be pro-active on what they may be asked to do.

## Updates: Conflict of Interest in Case Management and DS Payment Reform

### **Conflict of Interest in Case Management (COI)**

After the State received and reviewed the feedback from the Conflict of Interest in Case Management (COI) forums and information from people who filled out the questionnaires, the State is leaning towards the Choice option. This option would require the state to send out an RFP for independent case management providers for all areas of the state. Then people could choose between receiving their case management from the independent case management agency or the agency that also provides the rest of their direct services. This model is not totally compliant with the HCBS rules. The State would need to submit a request for an exception to the rule along with the proposed plan to mitigate conflict of interest to the Centers for Medicare and Medicaid Services (CMS) and seek approval. It is unknown if CMS will support this model so the State is trying to arrange a call with CMS to see if they will entertain the exception and if it will be worth submitting this plan. It is hoped that this information will be available by the next SPSC meeting.

(On the COI handout from last month’s meeting, this is Option 3: Expand the options for an individual to choose between having an independent case management or case management that remains with the direct service provider.)

There is a link on the Department of Vermont Health Access (DVHA) website to a CMS webinar about what three other states did, how they came into compliance with the rules, and how the process went. ( <https://dvha.vermont.gov/global-commitment-to-health/conflict-of-interest-home-and-community-based-services> ) Kara will ask GMSA if they would be interested in reaching out to other GMSA groups to find out about any input they may have.

### **DS Payment Reform**

#### Encounter Data Workgroup

Encounter data is a record of how much of each service a person received on a specific date. The designated agencies currently report encounter data to the State through the Monthly Service Report; however, there are gaps and incomplete information. The agencies were given an

ongoing \$750,000 in funding in the administration rate to cover some costs associated with reporting the encounter data information into the Medicaid Management Information System (MMIS).

Jennifer Perkins and Clare are working on the guidance for reporting the data to the MMIS. An initial draft of the guidance was sent in the summer; however, this did not include the section which describes what staff activities are reportable vs non-reportable. A draft of this guidance will be sent to the Vermont Care Partners for vetting. Clare asked if DS Directors could provide feedback at the next DS Director's meeting. Lynne Cleveland Vitzthum, Delaina Norton, and Clare are meeting later today and will work out the details.

We are planning for providing support and training to providers, such as an in-person, regional training on the guidance for providers, webinars and setting up ways for providing technical assistance such as regular phone calls.

Barb Prine commented that time and money being spent on this administrative work is not focused on supporting individuals receiving services. Clare noted that accounting for what services are delivered is required by CMS and using the MMIS system will help show what people are receiving for services and the money that is being spent. This will also help identify situations where people call and say they are not getting their services. We will be able to verify whether people are getting the services they are assessed to need.

#### Standardized Assessment Workgroup

The State is continuing to work on a contract to obtain the assessment tool. The workgroup has been working on the additional questions that will be added to the tool which will assist in fully assessing the person's needs.

Some of the questions in the COI feedback was about who should be conducting the needs assessment, State staff or contractors. Most of the feedback was learning towards having an independent contractor conduct the needs assessment. The State will need to craft a Request for Proposal (RFP) for a State contractor to do the needs assessment (assessment and re-assessments), looking for one entity/organization who would hire and oversee the appropriate number of assessors to do the assessments around the state. There is likely to be something in the contract with the State that requires a physical presence in Vermont. The designated agencies will still have a function with intake, but the actual intake process has not yet been determined. For people currently in services, agency staff will still be involved in the assessment process. There will be a process to obtain information from the people who know the individual best.

A suggestion was made to have a contractor who would have oversight of case management provided by agencies and ensure that people are being given a full choice instead, which would be less disruptive. It is not known if CMS would even consider this idea.

### Payment Model Workgroup

Burns and Associates are going to present their report on the rate study to the designated agencies on 12/17/19. Last time Burns and Associates presented information it was presented to the providers, and then on another date it was presented to the individuals, families, and advocacy organizations. Attendees at the SPSC meeting felt it was important to keep the presentations separate, as one has to be accessible and the audience (individuals, families, and advocacy organizations) may want to hear something different than what the agencies want to hear.

### Hiring, Training and Retaining Workers (Have sent to Diane, Nikki, and June to review)\

At the Innovation Think Tank, DDS Retreat, there was a group that discussed and had some good information about hiring, training and retaining workers. There is a lot happening at the agencies. June Bascom, Diane Bugbee, Debbie Smith, and Nicole Marabella have begun to review this information and take steps toward working on some of the issues. They have some people who want to participate in a taskforce to brainstorm a few ideas that can be focused on to create something tangible and concrete, outcomes that can be implemented and available, with thinking outside the box. Some ideas have already been suggested, such as creating a best practice guide.

The taskforce would like to gather ideas from the SPSC about things the taskforce should keep in mind, the challenges, and the things you see as needing to change.

- The National Association for Direct Support Professionals website has a lot of good information on it. <https://www.nadsp.org/>
- Hiring, Training, and Retaining are three separate areas.
- Hiring is the urgent need, feel the state is in crisis. There has always been fluxuation, but it has never been this bad.
  - Vacancy rate is unknown. Vermont does not have very many group homes so the data from the staff stability survey is not quite as good as it should be.
  - Vermont Care Partners (VCP) believes the DS Directors were just polled on this.
- Need exposure. Things that have always been done is not working any more. Need to invest money for television ads, find something different that agencies not yet tried.
  - May do a host of marking and only get 1 applicant. (at \$20/\$25 hour)
- Involve legislators, such as a loan forgiveness.
- Grants to help with education.
- Create a credentialing process, work study or internship. (Not something that people would use for a start and then move to something else.)
  - 4-year degree program? Tiers for a credentialing process?
- Tap into retirement population.
  - Mature worker staff person in Vocational Rehabilitation is interested in exploring retirees looking for part-time work and have life experience. Work with AARP.
- Advertise in surrounding states. Vermont's wages are higher than other states.

- Other than agencies near the borders, it is hard to recruit people from other states due to the high cost of housing/living in Vermont. The hospital is creating housing to help bring in nurses from other states.
- State Treasurer is coming up with a plan for 1,000 units over 5 years. Kirsten is trying to talk with her about people with disabilities.
- No pensions, can't make a career out of it.
- No steps to make more money.
- Gather input from workforce professionals.

The information from the Innovation Think Tank will be sent out again.

IMPACT magazine – Institute on community integration, university of Minnesota, Volume 31, number 1, winter/spring 2018, was passed around which featured direct support workforce and people with intellectual, developmental, and other disabilities.

The next step is to convene the taskforce. At this time it is unknown how often the taskforce will meet, that will depend on what the taskforce decides. It is possible that the larger group may break into smaller groups as the focus of the work is determined. If anyone is interested in being on the taskforce, contact Diane Bugbee at [Diane.Bugbee@Vermont.gov](mailto:Diane.Bugbee@Vermont.gov) by December 1<sup>st</sup>.

### DS SPSC Updates, Public Comments, Agenda Items for Next Meeting

For the December SPSC meeting, if you would like to, bring treats to share.

If anyone would like to take one, The Communicator, A Publication of the Autism National Committee, is on the table.

“Invaluable: The Unrecognized Profession of Direct Support.” A documentary film exploring the underappreciated and underfunded work of direct support professionals (DSPs), the people who support individuals with intellectual and developmental disabilities in living full lives as members of their communities is showing today at the Savoy Theatre in Montpelier at 1:00. (More information can be found at: <https://ici.umn.edu/product/invaluable/main> )

